

THE HONORABLE JAMES L. ROBERT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LEONARDO, S.p.A., an Italian company,

Plaintiff,

v.

THE BOEING COMPANY, a Delaware
corporation,

Defendant.

No. 2:19-cv-2082 JLR

STIPULATED MOTION TO EXTEND
EXPERT DISCLOSURE DEADLINE AND
~~[PROPOSED]~~ ORDER

NOTE ON MOTION CALENDAR:
April 8, 2021

I. INTRODUCTION

Pursuant to Federal Rule of Civil Procedure 16(b)(4) and Local Civil Rules 7(d)(1), 10(g), and 16(b)(6), Plaintiff Leonardo, S.p.A. (“Leonardo”) and Defendant The Boeing Company (“Boeing”) submit this stipulated motion to request that the Court order a ten-day extension of the current April 19, 2021 deadline for disclosure of expert testimony, as set forth in the current Case Schedule, ECF No. 39. This limited extension will not impact any other Case Schedule deadline, including the existing dispositive motion deadline or any deadlines thereafter, including the trial date of September 14, 2021.

Good cause exists for this minor adjustment to the case schedule because one of Boeing’s experts recently became severely ill after contracting COVID-19 and required out-patient hospital care. The expert’s treatment and recovery delayed his work by approximately ten days,

1 including work that other Boeing experts will likely incorporate in their own opinions. The
 2 current April 19 deadline for disclosure of expert testimony therefore cannot reasonably be met.
 3 The parties jointly request extending the disclosure deadline for all experts to April 29, 2021.

4 **II. BACKGROUND**

5 **A. Existing Case Schedule Deadlines**

6 Under the existing Case Schedule, disclosure of expert testimony under Federal Rule of
 7 Civil Procedure 26(a)(2) is due on April 19, 2021; all motions related to discovery must be filed
 8 by May 18, 2021; discovery must be completed by, and all dispositive motions and motions
 9 challenging expert witness testimony are due on, June 16, 2021; and trial is set for September 14,
 10 2021. ECF No. 39.

11 **B. The Parties Jointly Request Extending the Deadline for Disclosure of Expert 12 Testimony, With No Impact to Any Other Case Schedule Deadline**

13 Boeing and Leonardo have jointly agreed to a short, ten-day extension of the deadline for
 14 disclosing expert testimony, pursuant to Federal Rule of Civil Procedure 26(a)(2), which will not
 15 impact any other existing deadlines under the Case Schedule, including the trial date of
 16 September 14, 2021.

17 **III. ARGUMENT**

18 **A. The Court May Modify the Case Schedule for Good Cause**

19 The Federal Rules of Civil Procedure and Local Rules provide that a case schedule may
 20 be modified for good cause and with the judge's consent. Fed. R. Civ. P. 16(b)(4); LCR 16(b)(6).
 21 "In determining whether 'good cause' exists under Federal Rule of Civil Procedure 16(b) to
 22 modify a case schedule, the court 'primarily considers the diligence of the party seeking
 23 amendment.'" *Doe v. Trump*, 329 F.R.D. 262, 272 (W.D. Wash. 2018) (citing *Johnson v.*
 24 *Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992)). "Good cause" exists "when the
 25 deadline in the scheduling order 'cannot reasonably be met despite the diligence of the party
 26 seeking the extension.'" *Id.*

B. Good Cause Exists to Extend the Deadline for Disclosure of Expert Testimony

Leonardo and Boeing each assert that they have diligently prosecuted and defended this case. Recently, however, one of Boeing's experts contracted COVID-19 and required out-patient hospital treatment. The expert's treatment and recovery time together have cost the expert approximately ten days of work related to this case. The delay to the expert's work will impact the work of other experts, because the experts' opinions are interrelated. Boeing anticipates that the expert's illness will delay Boeing's expert-related work by ten days, in step with the expert's treatment and recovery time.

Under the circumstances, good cause exists to allow a ten-day agreed extension of the Case Schedule deadline for disclosing expert testimony, which is currently set for April 19, 2021. The extension will provide Boeing's experts with the additional time necessary to fully formulate their opinions. Applying the extension to both Boeing's and Leonardo's experts also will spare the Court and the parties the complexity of managing multiple expert-testimony deadlines, and avoid the risk of prejudice to Leonardo from having to disclose its expert testimony before Boeing does the same.

IV. CONCLUSION

For the foregoing reasons, the parties respectfully request that the Court extend the deadline for disclosing expert testimony to April 29, 2021, consistent with the Proposed Order accompanying this Motion.

IT IS SO STIPULATED by and between the parties hereto.

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2 DATED: April 8, 2021

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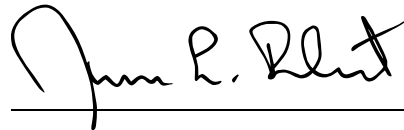
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II. ~~[PROPOSED]~~ ORDER

PURSUANT TO THE FOREGOING STIPULATION, it is ORDERED that the deadline for disclosure of expert testimony under Federal Rule of Civil Procedure 26(a)(2), which previously was set for April 19, 2021, is now April 29, 2021. All other provisions of the Case Schedule remain in effect.

DATED this 8th day of April, 2021.



HON. JAMES L. ROBART
UNITED STATES DISTRICT JUDGE

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CERTIFICATE OF SERVICE
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